

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

King Michael Tutankhaman,

Plaintiff

v.

Richard F. Boulware II,

Defendant

Case No.: 2:22-cv-01462-CDS-EJY

Order Adopting Magistrate Judge's Report
and Recommendation and Closing Case

(ECF No. 1, 4, 6, 7)

United States Magistrate Judge Elayna J. Youchah issued a Report and Recommendation (R&R) finding that plaintiff King Michael Tutankhaman's complaint fails to state a claim upon which relief may be granted. She recommends that I dismiss with prejudice the plaintiff's claims because (1) it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claims that would entitle him to relief, (2) Judge Boulware is immune from suit, and (3) federal law does not allow a private citizen to bring a criminal prosecution against another citizen. ECF No. 6. The deadline by which any written objections to the R&R must have been filed was October 3, 2022. *Id.* at 3; LR IB 3-2. To date, no objections have been filed. I therefore adopt the R&R in its entirety and direct the Clerk of Court to close this case.

"[N]o review is required of a magistrate judge's report and recommendation unless objections are filed." *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). The plaintiff does not object to the R&R here. While a *de novo* review of the R&R is not required, I nevertheless conduct one here. *See* 28 U.S.C. § 636(b)(1). A magistrate judge's order should only

1 be set aside if it is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); LR IB 3-1(a); 28
2 U.S.C. § 636(b)(1)(A). A magistrate judge's order is "clearly erroneous" if the court has "a
3 definite and firm conviction that a mistake has been committed." See *United States v. U.S. Gypsum*
4 *Co.*, 333 U.S. 364, 395(1948); *Burdick v. Comm'r IRS*, 979 F.2d 1369, 1370 (9th Cir. 1992). "An order
5 is contrary to law when it fails to apply or misapplies relevant statutes, case law[,] or rules of
6 procedure." *UnitedHealth Grp., Inc. v. United Healthcare, Inc.*, 2014 WL 4635882, at *1 (D. Nev. Sept.
7 16, 2014).

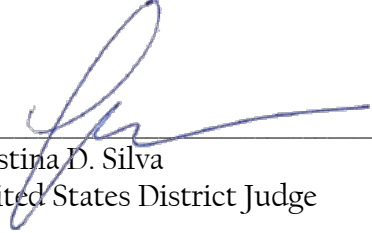
8 The plaintiff brought this lawsuit after Judge Boulware dismissed another of the
9 plaintiff's civil cases. ECF No. 1-1 at 3. As the magistrate judge properly concludes, federal judges
10 have absolute immunity from suit. ECF No. 6 (citing *Mullis v. U.S. Bankr. Ct.*, 828 F.2d 1385, 1394
11 (9th Cir. 1987), *cert. denied*, 486 U.S. 1040 (1988)). The plaintiff thus cannot prevail in a suit
12 against Judge Boulware because of absolute immunity. The magistrate judge also properly
13 identifies that federal law does not permit private citizens to bring criminal prosecutions, which
14 is what the plaintiff appears to attempt here. *Id.* (citing *Kidwell v. Cal. Dep't of Corr. and Rehab.*, 2022
15 WL 2307872, at *2 (E.D. Cal. June 27, 2022)). Further, the magistrate judge concludes that
16 "irrespective of the legal theory [that] [p]laintiff seeks to employ in an effort to sue Judge
17 Boulware, his claims fail as a matter of law." *Id.* at 2. I agree. Because the plaintiff does not object
18 to the R&R and because it was not clearly erroneous or contrary to law, I adopt the R&R in its
19 entirety and dismiss the plaintiff's complaint. I also deny the plaintiff's two pending applications
20 for leave to proceed *in forma pauperis* as moot and direct the Clerk of Court to close this case.

21 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and
22 Recommendation (ECF No. 6) is ADOPTED in its entirety.

23 IT IS FURTHER ORDERED that the plaintiff's complaint (ECF No. 1-1) is DISMISSED
24 WITH PREJUDICE, and both of his *in forma pauperis* applications (ECF Nos. 1, 7) are DENIED

1 as moot. I direct the Clerk of Court to CLOSE THIS CASE. The plaintiff is advised that he may
2 not file any further documents in this case, and the Clerk's Office is authorized to reject any
3 filings from the plaintiff on the docket for this matter.

4 DATED: October 7, 2022

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Cristina D. Silva
United States District Judge
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